

of a wireline local exchange carrier switch unbundled from switching or other services.”¹⁰²⁰

The FCC has interpreted this provision in previous § 271 Orders as requiring a BOC to provide both dedicated and shared transport to requesting carriers.¹⁰²¹

2. Discussion

VZ-MA provides unbundled local transport pursuant to both interconnection agreements and a Department-approved tariff.¹⁰²² According to VZ-MA, CLECS may use VZ-MA’s dedicated transport network element to carry their customers’ traffic between wire centers or switches owned by VZ-MA or CLECs.¹⁰²³ By July 2000, VZ-MA had more than 1,200 dedicated local transport facilities in service.¹⁰²⁴ CLECs may use VZ-MA’s shared transport network element for carrying their customers’ traffic between VZ-MA’s end-office switches, between VZ-MA’s end-office and tandem switches, and between VZ-MA’s tandem switches.¹⁰²⁵ Moreover, CLECs may use shared transport to reach other points within VZ-MA’s network (e.g., directory assistance, operator services), and to reach other CLECs’ networks that are

¹⁰²⁰ 47 U.S.C. § 271(c)(2)(B)(v).

¹⁰²¹ SBC Texas Order at ¶ 331 nn.920-921

¹⁰²² VZ-MA Application, Appdx. A, Tab 1, ¶ 160 (Lacouture/Ruesterholz Decl.).

¹⁰²³ Id.

¹⁰²⁴ Id. at ¶ 161.

¹⁰²⁵ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 261 (VZ-MA May Checklist Aff.).

interconnected to VZ-MA's network.¹⁰²⁶

VZ-MA also provides shared transport to CLECs in connection with unbundled local switching elements through UNE-P. Unbundled shared transport is not a separately orderable element, but is provisioned in conjunction with the unbundled line port at VZ-MA's end office switch.¹⁰²⁷ Through July 2000, VZ-MA has provisioned nearly 12,000 switching ports to CLECs, and is providing shared transport to and from each switching port.¹⁰²⁸ Thus, according to VZ-MA, the interval associated with unbundled shared inter-office facility ("IOF") transport would be the interval for establishing an unbundled line port depending on the specific type of unbundled line port ordered.¹⁰²⁹ VZ-MA reports a 97.3 percent on-time completion rate for CLECs' unbundled local transport orders in May through July 2000.¹⁰³⁰

According to VZ-MA, as of February 2000, it had provisioned 685 IOF arrangements (334 DS-1 level and 351 DS-3 level arrangements) to 15 different CLECs.¹⁰³¹ Moreover, VZ-

¹⁰²⁶ Id.

¹⁰²⁷ VZ-MA Application, Appdx. B, Vol. 10, Tab 138 (VZ-MA Response to Information Request DTE 2-81).

¹⁰²⁸ VZ-MA Application, Appdx. A, Tab 1, ¶ 165 (Lacouture/Ruesterholz Decl.)

¹⁰²⁹ VZ-MA Application, Appdx. B, Vol. 11, Tab 143 (VZ-MA Response to Information Request DTE 2-80).

¹⁰³⁰ VZ-MA Application, Appdx. A, Tab 1, ¶ 162 (Lacouture/Ruesterholz Decl.).

¹⁰³¹ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 259 (VZ-MA May Checklist Aff.).

MA added 1.1 million DS-0 circuits to the IOF network in Massachusetts, 15 percent of which (175,000 voice-grade circuits) were provided to CLECs as dedicated UNE IOF transport.¹⁰³² VZ-MA also offers OC-3 (optical carrier level 3) and OC-12 (optical carrier level 12) transport.¹⁰³³

In order to meet the increasing demand for IOF, VZ-MA states that it is building additional high capacity, Synchronous Optical Network (“SONET”) rings to increase the overall capacity of its IOF network. VZ-MA completed 60 SONET rings in 1999 and 50 more are under construction, all of which use OC-48 fiber optic multiplexers. According to VZ-MA, the completion of these new SONET rings will add capacity equal to approximately four million DS-0 circuits.¹⁰³⁴ In order to provision quality IOF transport, VZ-MA states that it conducts the plant test on the complete circuit that was ordered by the CLEC one day before the due date. On the due date, VZ-MA contacts the CLEC so that the CLEC can perform its own test on the circuit, accepting the circuit if everything is fine.¹⁰³⁵

The standard interval for IOF is 15 days for one to eight DS-1s or DS-3s, when facilities are available. VZ-MA negotiates the interval with the CLEC for larger quantities of DS-1, DS-

¹⁰³²

Id.

¹⁰³³

VZ-MA Application, Appdx. B, Vol. 16, Tab 190, at 1275 (Transcript of Technical Session Held 11/16/99).

¹⁰³⁴

VZ-MA Application, Appdx. B, Vol. 16, Tab 190, at 1298-1299 (Transcript of Technical Session Held 11/16/99).

¹⁰³⁵

Id. at 1364.

3, OCN products, and dark fiber arrangements.¹⁰³⁶ From April through July 2000, VZ-MA's average completion interval for CLEC-ordered DS-1s was 9.75, 9.71, 12.86, and 14.23 days, respectively, whereas VZ-MA's retail DS-1 provisioning intervals over the same four month period were 9.63, 7.55, 11.81, and 19.95 days, respectively. For DS-3 transport orders during the period from April through July 2000, VZ-MA completed CLEC orders in 30.00, 22.50, 26.96, and 29.00 days, respectively. VZ-MA's retail provisioning performance for DS-3s was 14.00 days in May and 12.00 days in July. VZ-MA did not provision any retail DS-3 transport orders in either April or June 2000.¹⁰³⁷

According to VZ-MA, the average completion interval for UNE special services (e.g., DS-0, DS-1, and DS-3 for both resale and UNE) can be longer than the standard interval if the order is large, if a longer interval is requested by the CLEC, or if the interval is negotiated. VZ-MA also asserts that "retail special services," against which its performance to CLECs is measured, contain a very different mix of orders which have shorter intervals than "UNE special services."¹⁰³⁸ According to VZ-MA, in those months where VZ-MA's performance for

¹⁰³⁶ VZ-MA Application, Appdx. B, Vol. 8a-b, Tab 132 (VZ-MA Response to Information Request DTE-MCIW 2-58).

¹⁰³⁷ VZ-MA Application, Appdx. B, Vol. 42, Tab 494, Exh. G1 (VZ-MA August Supplemental Aff.); Appdx. B, Vol. 47, Tab 552 (VZ-MA Performance Reports for July 2000).

¹⁰³⁸ VZ-MA Application, Appdx. B, Vol. 16, Tab 190, at 1270-1271, 1273, 1275 (Transcript of Technical Session Held 11/16/99); Appdx. B, Vol. 32a-b, Tab 423, ¶ 63 (VZ-MA May Checklist Aff.); Appdx. B, Vol. 11, Tab 140 (VZ-MA Response to

(continued...)

CLECs was not at parity with VZ-MA's retail performance, CLECs were not ready to accept the IOF orders one-and-a-half to more than seven times more often than VZ-MA. Further, VZ-MA's provisioning performance with respect to CLEC DS-1 and DS-3 orders, and retail DS-3 orders, is affected by the low volume of orders to be provisioned, which allows for a substantial skewing of VZ-MA's metrics if even one order is provisioned in a longer interval.¹⁰³⁹

VZ-MA also indicates that the apparent lack of parity in missed appointments is "simply the result of measuring against a retail standard that is currently not comparable to IOF."¹⁰⁴⁰ For example, VZ-MA reviewed the January 2000 retail orders that were used in comparison to the UNE special service orders and found that only 21 percent of these retail orders were comparable to UNE IOF.¹⁰⁴¹ According to VZ-MA, a system change to remove these non-comparable services is being implemented through the change control process.¹⁰⁴²

As of June 2000, VZ-MA was providing approximately 1000 miles of dark fiber to four

(...continued)

Information Request DTE 2-46).

¹⁰³⁹ During the period of April through July 2000, VZ-MA provisioned 20, 21, 43, and 13 CLEC DS-1 orders, respectively, in comparison to retail volumes of 2677, 3239, 222, and 309, respectively. For DS-3s, VZ-MA provisioned 5, 4, 24, and 2 CLEC orders and 0, 2, 0, and 1 retail orders from April through July, respectively.

¹⁰⁴⁰ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 128 (VZ-MA May Checklist Aff.).

¹⁰⁴¹ Id.

¹⁰⁴² VZ-MA Application, Appdx. B, Vol. 42, Tab 494, ¶ 25 (VZ-MA August Supplemental Checklist Aff.).

CLECs. Moreover, VZ-MA completed 171 dark fiber orders as of June 2000, 99 of which were completed between March and June of this year.¹⁰⁴³ According to VZ-MA, approximately 88 percent of the 99 orders were completed on time. VZ-MA's data indicate that its on-time performance is improving. For example, in March, it met its dark fiber due dates 75 percent of the time. In contrast, from April through June, it was able to complete all dark fiber orders on time.¹⁰⁴⁴

WorldCom claims that VZ-MA discriminates in the provisioning of UNE DS-3s by not adhering to the same testing and turn-up procedures that it uses when supplying DS-3s under its special access tariff.¹⁰⁴⁵ However, in its statement at the oral argument, WorldCom did not state that VZ-MA is not in compliance with this checklist item.¹⁰⁴⁶

VZ-MA responds to WorldCom's arguments by distinguishing a UNE DS-3 IOF from a special access DS-3. According to VZ-MA, the major differences are that: (1) special access DS-3s are terminated at the end-user premise, while a UNE DS-3 is terminated between two VZ-MA central offices; (2) the special access DS-3 requires a truck roll to the customer

¹⁰⁴³ VZ-MA Application, Appdx. B, Vol. 42, Tab 494, ¶ 62 (VZ-MA August Supplemental Checklist Aff.).

¹⁰⁴⁴ Id.

¹⁰⁴⁵ VZ-MA Application, Appdx. B, Vol. 37, Tab 455, at 38-39 (Worldcom Lichtenberg/Kinard/Drake Decl.).

¹⁰⁴⁶ VZ-MA Application, Appdx. B, Vol. 49, Tab 565 at 5596 (Transcript of Oral Argument Held 9/8/00).

premise for testing, while the UNE DS-3 does not; and (3) this testing may be done in advance of the due date.¹⁰⁴⁷ VZ-MA states that it continues to work with WorldCom to determine whether changes need to be made to the testing process for UNE IOF.¹⁰⁴⁸

Nextlink contends that “[VZ-MA’s] technicians routinely appear at the wrong address or prematurely determine that the customer is not ready for the service delivery date.”¹⁰⁴⁹ In response, VZ-MA states that its records show that none of the orders in Nextlink’s response was for unbundled IOF transport but, rather, all were special access orders.¹⁰⁵⁰ In addition, VZ-MA states that it determined that four of the six Nextlink orders were CNR, one was a VZ-MA miss for “no facilities available,” and one was a case where Nextlink had ordered the wrong type of signaling for the special access circuit.¹⁰⁵¹

During the investigation last year, Conversent raised concerns about the quality of some of the dark fiber provided by VZ-MA.¹⁰⁵² According to Conversent, VZ-MA provisioned sub-standard dark fiber on a span between Burlington and Lowell, Massachusetts. Conversent

¹⁰⁴⁷ VZ-MA Application, Appdx. B, Vol. 45, Tab 515, at 4233-4235 (Transcript of Technical Session Held 8/15/00).

¹⁰⁴⁸ Id. at 4235-4236.

¹⁰⁴⁹ VZ-MA Application, Appdx. B, Vol. 42, Tab 491 (Nextlink Response to Information Request DTE-Nextlink 1).

¹⁰⁵⁰ Id. at 4231-4232.

¹⁰⁵¹ Id.

¹⁰⁵² Id. at 3604.

argued that the measured loss on the dark fiber was 53 decibels (“db”).¹⁰⁵³ Conversent contended that VZ-MA is obligated under its interconnection agreement to provide Conversent with unbundled dark fiber that conforms to VZ-MA’s standard transmission characteristics at the time the fiber is installed. However, according to Conversent, VZ-MA has never provided Conversent with the data to demonstrate that this dark fiber conformed to VZ-MA’s standards when it was installed.¹⁰⁵⁴

VZ-MA responded to Conversent’s arguments by stating that there is no industry standard for acceptable transmission quality for dark fiber and that fiber manufacturers have different transmission quality standards for their cables.¹⁰⁵⁵ VZ-MA argues further that it is obligated only to provide dark fiber that conforms to the manufacturer’s standard transmission characteristics at the time the fiber is installed.¹⁰⁵⁶ VZ-MA claims that if the db loss reading meets the manufacturer’s specifications, the fiber cable is accepted and inventoried.¹⁰⁵⁷ VZ-MA also claims that it is the CLEC’s responsibility to determine that the transmission characteristics of the dark fiber provided by VZ-MA will accommodate the CLEC’s own transmission

¹⁰⁵³ Id. at 3607.

¹⁰⁵⁴ VZ-MA Application, Appdx. B, Vol. 17, Tab 215, at 4; Exh. 1 (Conversent Graham Aff.).

¹⁰⁵⁵ VZ-MA Application, Appdx. B, Vol. 9, Tab 133 (VZ-MA Response to Information Request DTE-NEVD 1-4).

¹⁰⁵⁶ Id.

¹⁰⁵⁷ Id.

requirements, and the CLEC has the ability to determine this prior to placing an order by ordering a field survey, as set forth in the dark fiber service description.¹⁰⁵⁸ According to VZ-MA, Conversent opts not to take advantage of this field survey option and, instead, orders and rejects fiber when it does not meet Conversent's desired characteristics.¹⁰⁵⁹ Conversent acknowledges that VZ-MA offers a field survey, in which VZ-MA tests the fiber to determine db loss, but states that it does not order these surveys because it does not know the fiber routes to survey.¹⁰⁶⁰ Conversent indicates that cost is not a consideration, and it would be willing to pay to have VZ-MA perform the field survey if it resulted in Conversent getting the fiber it needs.¹⁰⁶¹ VZ-MA indicates it is working with Conversent to "develop engineering services to improve the transmission characteristics of specific dark fibers," and that VZ-MA will soon make available to CLECs new, standardized engineering services.¹⁰⁶²

In its application, VZ-MA gave further details about these new processes and services. CLECs are now able to send VZ-MA a dark fiber inquiry form via electronic mail, identifying

¹⁰⁵⁸ VZ-MA Application, Appdx. B, Vol. 9, Tab 133 (VZ-MA Response to Information Request DTE-NEVD 1-6).

¹⁰⁵⁹ VZ-MA Application, Appdx. B, Vol 32a-b, Tab 423, ¶ 268 (VZ-MA May Checklist Aff.).

¹⁰⁶⁰ VZ-MA Application, Appdx. B, Vol. 21, Tab 237, at 3614-3615 (Transcript of Technical Session Held 12/8/99).

¹⁰⁶¹ Id. at 3623.

¹⁰⁶² Id. at ¶ 269.

the geographic end points of the dark fiber they wish to lease, and VZ-MA will determine whether any spare fiber exists between those end points.¹⁰⁶³ VZ-MA will also provide CLECs with a fiber layout map, showing the existing dark fiber routes within a central office.¹⁰⁶⁴ When a dark fiber order is accepted by a CLEC, VZ-MA will, on a time-and-materials basis, retrofit fiber with VZ-MA's currently-approved connectors in order to improve the transmission qualities of the fiber, and will also clean the connectors in order to remove non-embedded contaminants.¹⁰⁶⁵

Finally, AT&T Broadband argued that VZ-MA should be required to provide dedicated interoffice transport from a mid-span meet at UNE cost-based rates, and its failure to do so demonstrates noncompliance on this checklist item.¹⁰⁶⁶ VZ-MA responded that the mid-span meet issue raised by AT&T Broadband is already being considered by the Department as part of an ongoing arbitration proceeding, and is not a § 271 compliance issue.¹⁰⁶⁷

3. Conclusions

We find that no CLEC has mounted a credible challenge to VZ-MA's showing that it

¹⁰⁶³ VZ-MA Application, Appdx. A, Tab 1, ¶ 171 (Lacouture/Ruesterholz Decl.)

¹⁰⁶⁴ Id. at ¶ 172.

¹⁰⁶⁵ Id. at ¶ 173.

¹⁰⁶⁶ VZ-MA Application, Appdx. B, Vol. 49, Tab 565, at 5524 (Transcript of Oral Argument Held 9/8/00).

¹⁰⁶⁷ VZ-MA Application, Appdx. B, Vol. 49, Tab 565, at 5615 (Transcript of Oral Argument Held 9/8/00).

provides nondiscriminatory access to its unbundled local transport and that, therefore, VZ-MA has satisfied this checklist item.¹⁰⁶⁸

VZ-MA's unbundled local transport performance is generally good, as demonstrated by the C2C metrics. The problems noted by the CLECs do not rise to the level of discriminatory treatment. The Department finds that the difference between VZ-MA's ability to meet due dates for CLECs and for itself is not competitively significant, especially when we factor in the volume of orders provisioned, the percentage of missed due dates attributable to CLECs, and the difficulty of making an "apples to apples" comparison between retail special service orders and UNE special service orders.

Regarding Nextlink's concerns, we note that the FCC does not consider the provision of special access services for purposes of determining compliance with this checklist item.¹⁰⁶⁹ The Department finds that this specific evidence confutes Nextlink's general assertion. Nextlink's claim of "routine" failure by VZ-MA is hyperbole.

The Department also finds VZ-MA's explanation fully responsive to WorldCom's complaints. We do not find WorldCom's comparison of testing procedures between unbundled transport and special access DS-3s to be indicative of any discrimination on the part of VZ-MA with respect to this checklist item. The Department finds VZ-MA's willingness to work with

¹⁰⁶⁸ See VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 258 (VZ-MA May Checklist Aff.).

¹⁰⁶⁹ SBC Texas Order at ¶ 335.

WorldCom and, presumably, other CLECs to improve its testings processes further proof of VZ-MA's satisfaction of this checklist requirement.

Concerning Conversent's dark fiber issues, we note that on September 6, 2000, Conversent filed with the Department a letter indicating that it and VZ-MA are cooperating to improve the transmission quality of certain dark fiber spans, an arrangement it expects to reduce to writing via an amendment to its interconnection agreement. VZ-MA has demonstrated its willingness to address Conversent's concerns, which we believe go beyond its statutory, contractual, or § 271 obligations. The Department is confident VZ-MA would be as accommodating to other CLECs should similar dark fiber issues arise. Based on the satisfactory resolution of Conversent's concerns, as well as VZ-MA's continuing discussions about improving the dark fiber ordering and provisioning processes, the Department finds that VZ-MA is provisioning dark fiber in a nondiscriminatory manner.

Finally, concerning AT&T Broadband's mid-span meet issue, we note the issue is squarely before the Department in an ongoing arbitration proceeding, separate and apart from this docket.¹⁰⁷⁰ The Department will address AT&T Broadband's concerns in that proceeding. Moreover, we find that AT&T Broadband's issue is not a § 271 compliance issue.

F. Checklist Item 6 - Unbundled Local Switching

1. Standard of Review

Section 271(c)(2)(B)(vi) requires a BOC to provide "[l]ocal switching unbundled from

¹⁰⁷⁰ MediaOne Arbitration, D.T.E. 99-42/43.

transport, local loop transmission, or other services.”¹⁰⁷¹ As most recently reaffirmed in the SBC Texas Order, the FCC has interpreted this checklist item as requiring BOCs to provide unbundled local switching that includes the line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.¹⁰⁷² These features, functions, and capabilities include the basic switching function as well as the same basic capabilities that are available to the BOC. Additionally, the FCC has determined that local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.¹⁰⁷³

In its Second BellSouth Louisiana Order, the FCC further held that BOCs must permit CLECs to purchase unbundled switching in a manner that permits CLECs to offer, and bill for, exchange access and the termination of local traffic. Moreover, the BOC must demonstrate that it offers equivalent access to billing information for this checklist item.¹⁰⁷⁴ In previous orders, the FCC held that a BOC must make available trunk ports on a shared basis and routing tables resident in the BOC’s switch, as necessary to provide access to the shared transport functionality. Lastly, a BOC may not limit a CLEC’s ability to use unbundled local switching to provide exchange access by requiring CLECs to purchase a dedicated trunk from an IXC’s

¹⁰⁷¹ 47 U.S.C. § 271(c)(2)(B)(vi).

¹⁰⁷² SBC Texas Order at ¶ 336.

¹⁰⁷³ Id.

¹⁰⁷⁴ Billing issues are addressed in Section V.B.1.i., above.

point of presence to a dedicated trunk port on the local switch.¹⁰⁷⁵

2. Discussion

VZ-MA states that it provides nondiscriminatory access to local switching, including features, functions, and capabilities of the switch through both its interconnection agreements and through Tariff No. 17.¹⁰⁷⁶ Specifically, VZ-MA provides: (1) line-side and trunk-side facilities; (2) basic switching functions; (3) vertical switch features; (4) customized routing; (5) shared trunk ports; (6) unbundled tandem switching; (7) usage information for billing for exchange access; and (8) usage information for reciprocal compensation.¹⁰⁷⁷ VZ-MA provisions CLEC orders using the same facilities, equipment, and personnel as for VZ-MA's retail orders.¹⁰⁷⁸ Furthermore, VZ-MA makes available all the switching features and functionality it currently uses for its own services.¹⁰⁷⁹

VZ-MA provides local switching in each of its central offices and provides a cross-connect between a line or trunk port and a CLEC's collocation arrangement. Additionally, VZ-MA offers access to tandem switching at each tandem switch and, similarly, provides a cross-

¹⁰⁷⁵ See SBC Texas Order at ¶¶ 337-338.

¹⁰⁷⁶ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 290 (VZ-MA May Checklist Aff.).

¹⁰⁷⁷ VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 80 (Stern Aff.).

¹⁰⁷⁸ VZ-MA Application, Appdx. A, Tab 1, ¶ 154 (Lacouture/Ruesterholz Decl.).

¹⁰⁷⁹ VZ-MA Application, Appdx. B, Vol. 16, Tab 190, at 1437 (Transcript of Technical Session Held 11/16/99).

connect between a trunk port and a CLEC's collocation arrangement.¹⁰⁸⁰ Moreover, VZ-MA makes available eight types of line ports; trunk port connections with line treatment; and access to functions and capabilities that are resident in the switch for the port type requested, on a line-by-line basis, which a CLEC can activate at the time of provisioning or anytime thereafter.¹⁰⁸¹

Through the end of February 2000, VZ-MA had provided over 1,400 local switching ports on a line-side basis as part of UNE-P, of which 1,300 were for business service and 100 were for residential customers.¹⁰⁸² VZ-MA reports a significant increase in the number of switching ports provisioned for CLECs, and says that it has provisioned nearly 12,000 local line-side switching ports as part of UNE-P as of July 2000, with 1,900 local switching ports provisioned in July 2000 alone.¹⁰⁸³ In May through July 2000, VZ-MA reports an on-time completion rate of greater than 99 percent for switching/UNE-P orders.¹⁰⁸⁴ VZ-MA further reports that the average provisioning interval for CLEC local switching was 1.15 days, compared with an interval of 1.64 days for VZ-MA retail.¹⁰⁸⁵

¹⁰⁸⁰ VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 81 (Stern Aff.).

¹⁰⁸¹ Id. at ¶ 82.

¹⁰⁸² VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 290 (VZ-MA May Checklist Aff.).

¹⁰⁸³ VZ-MA Application, Appdx. A, Tab 1, ¶ 146 (Lacouture/Ruesterholz Decl.)

¹⁰⁸⁴ Id. at ¶ 147.

¹⁰⁸⁵ Id. at ¶ 148.

VZ-MA also provides tandem switching, consisting of dedicated tandem trunk ports, shared tandem trunk ports, features, and tandem usage and group routings.¹⁰⁸⁶ According to VZ-MA, local switching may be combined with shared transport, enabling a CLEC to route its traffic over VZ-MA's network in the same way that VZ-MA routes traffic for its own retail customers.¹⁰⁸⁷ In addition, VZ-MA will also provide local switching, upon request, using customized routing by class-of-call, for example, operator services or directory assistance.¹⁰⁸⁸

VZ-MA has developed the network design request ("NDR") process to facilitate the development and implementation of CLEC requests for VZ-MA-provided routing.¹⁰⁸⁹ The NDR is used to set up the CLEC's network and routing plans within VZ-MA's network.¹⁰⁹⁰ Through this process, a CLEC can request standardized routing and blocking options and dialing plans, mirroring the VZ-MA routing, blocking, and dialing plans. Alternatively, a CLEC can request its own customized plans.¹⁰⁹¹

Should a CLEC select VZ-MA's standardized option (the so-called Option B), CLECs

¹⁰⁸⁶ VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 84 (Stern Aff.).

¹⁰⁸⁷ Id. at ¶ 85.

¹⁰⁸⁸ Id.

¹⁰⁸⁹ Id.

¹⁰⁹⁰ Id. at ¶ 86.

¹⁰⁹¹ VZ-MA Application, Appdx. B, Vol. 16, Tab 190, at 1438 (Transcript of Technical Session Held 11/16/99).

may establish a presence in every switch in VZ-MA's territory in approximately six weeks.¹⁰⁹² According to VZ-MA, it has pre-built the necessary switch translations for Option B into all of its switches, thus affording CLECs a quick way to obtain a ubiquitous switch presence in Massachusetts.¹⁰⁹³ As of February 2000, nine CLECs were using VZ-MA's Option B.¹⁰⁹⁴ By August 2000, the number of CLECs using VZ-MA's Option B had increased to 17.¹⁰⁹⁵ Due to such necessary steps as loading operator services and directory assistance ("OS/DA") branding tapes and loading CLEC-specific rates, the NDR completion intervals for Option B varied from 14 to 38 business days.¹⁰⁹⁶

With the non-standardized option (Option A), VZ-MA develops customized office dialing plans and line class codes to meet a CLEC's "unique requirements for routing instructions, default features, and the creation of appropriate billing and usage records."¹⁰⁹⁷ This option requires VZ-MA to load the customized design into each switch separately as

¹⁰⁹² Id. at 1438, 1440.

¹⁰⁹³ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 276 (VZ-MA May Checklist Aff.).

¹⁰⁹⁴ Id. at ¶ 277.

¹⁰⁹⁵ VZ-MA Application, Appdx. A, Tab 1, ¶ 151 (Lacouture/Ruesterholz Decl.).

¹⁰⁹⁶ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 277 (VZ-MA May Checklist Aff.).

¹⁰⁹⁷ Id. at ¶ 272.

ordered by the CLEC.¹⁰⁹⁸ The work required for Option A is time-consuming and complex, requiring, on average, 50 business days to complete.¹⁰⁹⁹ If a CLEC chooses Option A statewide, VZ-MA's technicians are required to write and program code, and build and load those uniquely defined new line class codes into approximately 140 host switches.¹¹⁰⁰

WorldCom argues that VZ-MA's provision of local switching should be tested by KPMG.¹¹⁰¹ WorldCom also stated that it opened a trouble ticket on its first UNE-P order in Massachusetts because it did not receive WorldCom branding for OS/DA.¹¹⁰² However, in its statement at the oral argument, WorldCom did not state that VZ-MA is not in compliance with checklist item 6.¹¹⁰³

VZ-MA states that its records indicate that WorldCom's complaints about a UNE-P end-user's inability to use Call Return and to receive an WorldCom-branded OS/DA are incorrect. VZ-MA provided the history of this particular WorldCom trouble ticket, which revealed

¹⁰⁹⁸ Id. at ¶ 273.

¹⁰⁹⁹ VZ-MA Application, Appdx. B, Vol. 16, Tab 193, at 1476-1478 (Transcript of Technical Session Held 11/17/99).

¹¹⁰⁰ Id. at 1476.

¹¹⁰¹ VZ-MA's Application, Appdx. B, Vol. 18, Tab 220, at 50 (WorldCom Guariglia/Kinard/Lichtenberg/Ryan Decl.).

¹¹⁰² VZ-MA Application, Appdx. B, Vol. 21, Tab 238, at 3763-3764 (Transcript of Technical Session Held 12/09/99).

¹¹⁰³ VZ-MA Application, Appdx. B, Vol. 49, Tab 565 at 5596 (Transcript of Oral Argument Held 09/08/00).

customer complaints concerning an inability to use Call Return in addition to the OS/DA branding problems.¹¹⁰⁴ VZ-MA reported that there was no error in the switch translations, and explained that Call Return, which permits a customer to automatically place calls to the party that last called, does not function over certain lines.¹¹⁰⁵

During the technical sessions, Z-Tel alleged that VZ-MA delayed Z-Tel's implementation of Option A because VZ-MA missed a series of meetings. Z-Tel also argued that VZ-MA should provision Option A within a 60-day interval to avoid unwarranted delays to CLEC entry into the local exchange market.¹¹⁰⁶ VZ-MA responds that Z-Tel, not VZ-MA, was responsible for delaying a scheduled meeting, because Z-Tel missed an initial meeting and cited an urgent need to focus on New York (resulting in the exclusion of Massachusetts and Pennsylvania) when that meeting was rescheduled.¹¹⁰⁷

3. Conclusions

The Department is persuaded by VZ-MA's review of the WorldCom trouble ticket and its explanation that WorldCom's customer indeed, simply misunderstood the limitations of the Call Return feature. Moreover, WorldCom has not disputed VZ-MA's response to

¹¹⁰⁴ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 285 (VZ-MA May Checklist Aff.).

¹¹⁰⁵ Id.

¹¹⁰⁶ VZ-MA Application, Appdx. B, Vol. 18, Tab 219, at 7 (Z-Tel Statement of D. Davis).

¹¹⁰⁷ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 281 (VZ-MA May Checklist Aff.).

WorldCom's complaint. Finally, even if we accepted as accurate WorldCom's complaint, it was an isolated incident that has not impeded WorldCom's ability to compete in Massachusetts. An anecdote (even were it a valid one) does not constitute a systemic pattern.

Moreover, during the technical sessions, Z-Tel conceded that no other state has a standard interval for NDRs.¹¹⁰⁸ The Department is not persuaded by Z-Tel's claims that VZ-MA's unbundled switching performance is discriminatory. Indeed, in its latest filing, Z-Tel indicates that VZ-MA has worked effectively to implement Z-Tel's standard NDRs, provisioning them in a 30- to 45-day interval.¹¹⁰⁹ Lastly, while Z-Tel still believes that a standard interval for custom NDRs would assist carriers in launching service, the lack of a firm 60-day interval has not, in fact, impeded Z-Tel's ability to roll out service in Massachusetts.¹¹¹⁰

For the aforementioned reasons, the Department finds VZ-MA meets the requirements set forth in checklist item 6.

G. Checklist Item 7 - E911 Access, Directory Assistance/Operator Services

1. 911 and E911 Access

a. Standard of Review

Section 271(c)(2)(B)(vii)(I) requires a BOC to provide "nondiscriminatory access

¹¹⁰⁸ VZ-MA Application, Appdx. B, Vol. 21, Tab 237, at 3440 (Transcript of Technical Session Held 12/08/99).

¹¹⁰⁹ VZ-MA Application, Appdx. B, Vol. 38, Tab 463, ¶ 5 (Z-Tel's Comments on VZ-MA's Supplemental Comments).

¹¹¹⁰ Id.

to . . . 911 and E911 services.”¹¹¹¹ In previous § 271 orders, the FCC has found that a BOC must provide CLECs access to its 911 and enhanced 911 (“E911”) services in the same manner that a BOC obtains such access (i.e., at parity). Specifically, the BOC must maintain the 911 database entries for CLECs with the same accuracy and reliability that it maintains this database for its own customers.¹¹¹²

b. Discussion

VZ-MA offers E911 interconnection to CLECs under existing interconnection agreements and tariffs.¹¹¹³ According to VZ-MA, CLECs are permitted to provide their end-users with access to E911 service by: (1) supplying dial tone, if the CLEC is facilities-based; (2) purchasing local switching from VZ-MA; or (3) reselling VZ-MA’s retail exchange service.¹¹¹⁴ VZ-MA states that when a CLEC has its own switch providing its own dial-tone, the CLEC must interconnect with the E911 network at the E911 tandem by either providing its own trunks or by leasing them from VZ-MA.¹¹¹⁵ VZ-MA states that the trunks between the E911 tandem and the Public Service Answering Point (“PSAP”) are the same trunks used to transport VZ-MA’s E911 calls, and that, for a CLEC call, VZ-MA is responsible for the E911

¹¹¹¹ 47 U.S.C. § 271(c)(2)(B)(vii)(I).

¹¹¹² Bell Atlantic New York Order at ¶ 349.

¹¹¹³ VZ-MA Application, Appdx. A, Tab 1, ¶ 203 (Lacouture/Ruesterholz Decl.).

¹¹¹⁴ VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 34 (Howard Aff.).

¹¹¹⁵ VZ-MA Application, Appdx. A, Tab 1, ¶ 206 (Lacouture/Ruesterholz Decl.).

call, all elements of the network, network design, and routing to the PSAP.¹¹¹⁶ As of July 2000, VZ-MA has provided over 509 E911 trunks to 28 CLECs.¹¹¹⁷

Moreover, VZ-MA indicates that it provides nondiscriminatory access to the E911 database so that information about a CLEC end-user may be entered.¹¹¹⁸ For a CLEC purchasing VZ-MA's local switching or resale, VZ-MA states that the necessary fields are provided to the CLEC's customers in the exact same manner as for VZ-MA's retail customers.¹¹¹⁹ VZ-MA indicates that, as of July 2000, CLECs with their own switches had over 418,000 E911 listings in Massachusetts.¹¹²⁰

No CLECs dispute VZ-MA's compliance with this portion of checklist item 7.

c. Conclusions

In prior § 271 orders, the FCC noted that no commenter disputed the BOC's compliance with this part of checklist item 7, and that the state commission had concluded that the BOC was providing nondiscriminatory access to 911/E911.¹¹²¹ We are presented with a similar situation in Massachusetts with regard to VZ-MA's obligation to provide nondiscriminatory

¹¹¹⁶ Id. at ¶ 208.

¹¹¹⁷ Id. at ¶ 207.

¹¹¹⁸ Id. at ¶ 213.

¹¹¹⁹ Id. at ¶ 212-213.

¹¹²⁰ Id. at ¶ 209.

¹¹²¹ Bell Atlantic New York Order at ¶ 350; SBC Texas Order at ¶ 344.

access to 911/E911. Based upon the uncontested evidence in the record, we conclude that VZ-MA is providing nondiscriminatory access to 911/E911 and has successfully demonstrated to us its compliance with this portion of checklist item 7.

2. Directory Assistance & Operator Services

a. Standard of Review

Sections 271(c)(2)(B)(vii)(II)-(III) require a BOC to provide nondiscriminatory access to “directory assistance services to allow the other carrier’s customers to obtain telephone numbers” and “operator call completion services.”¹¹²² The FCC has concluded that a BOC must be in compliance with the rules implementing § 251(b)(3) in order to satisfy the requirements of this part of the checklist item.¹¹²³

The FCC explains that “operator call completion services” is a subset of or equivalent to “operator services” (“OS”) which has been defined as “any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call,” and that this includes “busy line verification, emergency interrupt, and operator-assisted directory assistance.”¹¹²⁴ The FCC also held that “nondiscriminatory access to directory assistance and directory listings” means that “the customers of all telecommunications service providers should be able to access each LEC’s [DA] service and obtain a directory listing on a

¹¹²² Bell Atlantic New York Order at ¶ 351.

¹¹²³ Id. at ¶ 352, citing Second Bell South Louisiana Order; SBC Texas Order at ¶ 346.

¹¹²⁴ Bell Atlantic New York Order at ¶ 352 n.1093.

nondiscriminatory basis”¹¹²⁵

Furthermore, the FCC states that competing carriers may provide OS and DA by either reselling the BOC’s services or by using their own personnel and facilities to provide these services.¹¹²⁶ The FCC notes that its rules require BOCs to permit CLECs wishing to resell the BOC’s OS/DA to request the BOC to brand their calls, and that competing carriers wishing to provide OS/DA using their own facilities and personnel must be able to obtain directory listings either by obtaining directory information on a “read only” or “per dip” basis from the BOC’s DA database, or by creating database by subscriber listing information in the BOC’s database.¹¹²⁷

Moreover, although the FCC originally concluded that BOCs must provide OS/DA on an unbundled basis pursuant to §§ 251 and 252, the FCC removed OS/DA from the list of required unbundled network elements in the UNE Remand Order.¹¹²⁸ The FCC notes that checklist item obligations that do not fall within a BOC’s obligations to provide UNEs are not subject to the requirements of §§ 251 and 252, including the requirement that rates be based

¹¹²⁵ SBC Texas Order at ¶ 346, citing In Re: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 98-68, Second Report and Order and Memorandum Opinion and Order, FCC 96-333 (August 8, 1996) (“Local Competition Second Order and Report”) at ¶¶ 130-135.

¹¹²⁶ SBC Texas Order at ¶ 347.

¹¹²⁷ Id.

¹¹²⁸ SBC Texas Order at ¶ 348, citing UNE Remand Order at ¶¶ 441-442.

upon forward-looking economic costs.¹¹²⁹ However, the FCC stated that checklist items that do not fall within a BOC's UNE obligations still must be provided in accordance with §§ 201(b) and 202(a), which require that rates and conditions are just and reasonable, and not unreasonably discriminatory.¹¹³⁰

b. Discussion

VZ-MA claims that it provides nondiscriminatory access to its operator call completion services to CLECs pursuant to both interconnection agreements and Tariff No. 17. Specifically, VZ-MA makes OS available to CLECs by the following means: (1) CLECs can purchase OS from VZ-MA and use VZ-MA's facilities and personnel; or (2) CLECs may establish their own OS centers and resell VZ-MA's OS.¹¹³¹ A CLEC electing the latter option must interconnect its center with VZ-MA's OS centers so that both VZ-MA and the CLEC can provide busy line verification and calling line interrupt services.¹¹³² In addition, CLECs can interconnect with VZ-MA's Line Information Database to verify telephone number and other billing information.¹¹³³

VZ-MA indicates that in December 1999, all CLEC UNE-P, facility-based CLEC, and

¹¹²⁹ Id.

¹¹³⁰ Id.

¹¹³¹ VZ-MA Application, Appdx. A, Vol. 1, Tab 1, ¶227 (Lacouture/Ruesterholz Decl.).

¹¹³² Id.

¹¹³³ Id.

reseller calls were commingled with VZ-MA's retail traffic, and service was provided to all customers at 2.3 seconds.¹¹³⁴ During May through July 2000, VZ-MA, on average, answered OS calls from CLECs' customers within 0.9 seconds and calls from VZ-MA retail customers within 2.6 seconds.¹¹³⁵ As of July 2000, 16 CLECs were purchasing Operator Call Completion services (the dial-zero function) from VZ-MA using 1,300 dedicated transport facilities provided by VZ-MA; another 14 CLECs were purchasing VZ-MA Operator Call Completion services using VZ-MA's shared transport.¹¹³⁶ Also, 44 resellers were using VZ-MA's Operator Call Completion services.¹¹³⁷ VZ-MA indicates that its cost studies for OS are currently under review by the Department in the Consolidated Arbitrations, and OS rates based upon that cost study were filed in Tariff No. 17.¹¹³⁸

Moreover, VZ-MA reports that it provides OS with three branding options: (1) a CLEC- specific brand; (2) VZ-MA's branding; or (3) unbranded.¹¹³⁹ As of the end of October 1999, VZ-MA indicates that there were 12 carriers utilizing VZ-MA's OS, of which eight used

¹¹³⁴ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 297 (VZ-MA May Checklist Aff.).

¹¹³⁵ VZ-MA Application, Appdx. A, Tab 1, ¶ 234 (Lacouture/Ruesterholz Decl.).

¹¹³⁶ Id. at ¶ 231.

¹¹³⁷ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 296 (VZ-MA May Checklist Aff.).

¹¹³⁸ VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 54 (Howard Aff.).

¹¹³⁹ VZ-MA Application, Appdx. A, Tab 1, ¶ 228 (Lacouture/Ruesterholz Decl.).

their own brand, three were unbranded, and one utilized VZ-MA's brand.¹¹⁴⁰

Next, VZ-MA claims it provides nondiscriminatory access to its DA service pursuant to both its interconnection agreements and Tariff No. 17.¹¹⁴¹ CLECs have three options for providing DA: (1) establish their own DA and use VZ-MA's DA database on a read-only basis; (2) purchase VZ-MA's DA and use VZ-MA's facilities, personnel, and database; or (3) resell VZ-MA's DA.¹¹⁴² As of July 2000, 18 CLECs were purchasing DA service from VZ-MA using 1,300 dedicated trunk ports and transmission facilities provided by VZ-MA; another 14 CLECs are purchasing VZ-MA's DA service and using VZ-MA's shared transport service; and 44 resellers were reselling VZ-MA's DA.¹¹⁴³ Moreover, 17 CLECs are using branding other than VZ-MA for DA and 16 CLECs are using branding other than VZ-MA for OS.¹¹⁴⁴ In addition, VZ-MA indicates that one carrier has asked that it be provided VZ-MA's DA in two flavors, branded and unbranded.¹¹⁴⁵ VZ-MA also indicates that it provides CLECs with DA

¹¹⁴⁰ VZ-MA Application, Appdx. B, Vol. 16, Tab 193, at 1530-31(Transcript of Technical Session Held 11/17/99).

¹¹⁴¹ VZ-MA Application, Appdx. A, Tab 1, ¶ 216 (Lacouture/Ruesterholz Decl.).

¹¹⁴² VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 56 (Howard Aff.).

¹¹⁴³ VZ-MA Application, Appdx. A, Tab 1, ¶¶ 219, 222 (Lacouture/Ruesterholz Decl.).

¹¹⁴⁴ VZ-MA Application, Appdx. B, Vol. 32a-b, Tab 423, ¶ 293 (VZ-MA May Checklist Aff.).

¹¹⁴⁵ VZ-MA Application, Appdx. B, Vol. 16, Tab 193, at 1531(Transcript of Technical Session Held 11/17/99).

Call Completion ("DACC").¹¹⁴⁶

According to VZ-MA, during May through July 2000, on average, VZ-MA answered CLECs' customers DA calls routed to the wholesale call center within 2.6 seconds and VZ-MA retail center calls (including resale calls) within 3.0 seconds.¹¹⁴⁷ VZ-MA indicates that recurring and non-recurring cost studies for DA that used the FCC's TELRIC methodology are currently under review in the Department's Consolidated Arbitrations and D.T.E. 98-57 proceedings.¹¹⁴⁸ Finally, according to VZ-MA, the FCC recently found that DA service is highly competitive and has removed it from the list of UNEs BOCs must make available to requesting CLECs.¹¹⁴⁹

In its initial comments, WorldCom raised concerns regarding its inability to determine whether VZ-MA is indeed providing nondiscriminatory access to 911, OS and DA until a third party examines VZ-MA's implementation of its NDR process.¹¹⁵⁰ WorldCom stated that in New York, KPMG found that VZ-NY's NDR processes had no quality controls and, as a

¹¹⁴⁶ VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 59 (Howard Aff.); VZ-MA Application, Appdx. A, Tab 1, ¶ 217 (Lacouture/Ruesterholz Decl.).

¹¹⁴⁷ VZ-MA Application, Appdx. A, Tab 1, ¶ 226 (Lacouture/Ruesterholz Decl.).

¹¹⁴⁸ VZ-MA Application, Appdx. B, Vol. 1a-aa, Tab 2, ¶ 27 (Howard Aff.). We note that these cost studies have since been approved.

¹¹⁴⁹ VZ-MA Application, Appdx. B, Vol. 16, Tab 193, at 1540 (Transcript of Technical Session Held 11/17/99).

¹¹⁵⁰ VZ-MA Application, Appdx. B, Vol. 3, Tab 51, at 4 (WorldCom Initial Comments).

result, WorldCom asserts that certain services such as OS and DA were not being provisioned as ordered by CLECs.¹¹⁵¹ Despite these earlier concerns, WorldCom did not dispute VZ-MA's compliance with checklist item 7 in its statement at the September 8, 2000 oral argument.

c. Conclusions

We note that WorldCom provided no evidence regarding any provisioning problems with OS/DA and that WorldCom did not pursue this issue further. Moreover, WorldCom did not contest VZ-MA's compliance with this portion of checklist item 7 beyond its initial comments. Based upon the record, we find that VZ-MA provides nondiscriminatory access to its DA and operator call completion services and thus, we verify compliance with this portion of checklist item 7.

H. Checklist Item 8 - White Pages Directory Listings

1. Standard of Review

Section 271(c)(2)(B)(viii) requires a BOC to provide "[w]hite pages directory listings for customers of the other carrier's telephone exchange service."¹¹⁵² According to the FCC's Second Bell South Louisiana Order, the term "white pages" refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider and that this term includes, at a minimum, the subscriber's name, address,

¹¹⁵¹ Id. at 4-5.

¹¹⁵² 47 U.S.C. § 271(c)(2)(B)(viii).